REMARKS

Claims 1-59 are pending herein. By this Amendment, Claims 1, 6, 7, 8, 24, 25, 26, 30, and 43, are amended, and new Claims 54-59 are added. The amendment to claim 24 corrects an inadvertent grammatical error. The amendments to the remaining claims recites --piece-- rather than "strip" or "strip-shaped". Support for the amendments and the new claims is found in the specification at, *inter alia*, paragraphs [0009] -[0012], [[0021], [0032] - [0035], and [0053] and original claims 1, 6, 8, and 26. No new matter is added by this Amendment.

In the Office Action, Claims 6, 24, 42, and 44-53 are indicated as allowable if rewritten to overcome the rejections under 35 U.S.C. 112, 2nd paragraph. On May 1, 2006, Applicants' representative, Warren Zitlau, telephoned Examiner Helen Pratt to discuss this because there are no 35 U.S.C. 112 rejections in the Office Action. Examiner Pratt agreed and said this was an error. However, in claim 6, the term "strip-shaped food product" has been changed to --piece-- and claim 1 has been amended to recite "piece" to avoid any question of antecedent basis regarding the term "strip-shaped food product." Thus, Claims 6, 24, 42, and 44-53 recite allowable subject matter.

I. REJECTION UNDER 35 U.S.C. 103(a)

Claims 1-5, 7-23, 25-41 and 43 were rejected under 35 U.S.C. 103(a) as being unpatentable over Karwowski et al. (U.S. Patent No. 5,731,029) in view of Nakajima (JP 9149757) and Scaglione (U.S. Patent No. 5,094,870), McGenity et al. (U.S. Patent No. 6,652,892), and Richar et al. (U.S. Patent No. 5,405,836). This rejection is respectfully traversed.

None of the references taken alone or in combination teach or suggest the addition of wheat flour to a rotary molded strip-shaped, high meat content food product as claimed in claims 1-5, 7-23, 25, 31, and 32 unexpectedly increases the strength and flexibility of the rotary molded strip as demonstrated by the comparative data in the present specification. See paragraphs [0009] - [0011], [0018], [0032] - [0033], Example 1 vs Comparative Example 2 and paragraph [0070]; Experimental Examples B, C, and E vs. Control, Experimental Examples A and D in Table 5 (tensile strength) and paragraphs [0071] - [0074]; and Control vs. Experimental Example E in Table 6 (flexibility) and paragraphs [0075] - [0076].

Also, none of the references taken alone or in combination teach or suggest the addition of salt to comminuted raw meat prior to or during cooking of the meat as claimed in claims 26 to 41 and 43 unexpectedly increases water activity of rotary molded flexible food strips to obtain a moister, chewy food product, and increases tensile strength compared to products obtained with salt addition in a preblend after cooking as demonstrated by the comparative data in the present specification. See paragraphs [0012], [0018], [0034], and [0035], Control vs. Experimental Example A in Table 7 and paragraph [0077]; and Experimental Examples F1 and F2 vs F3 and F4 in Tables 8, 9, and 10, and paragraphs [0077] -[0081].

Karwowski et al discloses the production of jerky products using a rotary molder, which exhibit a distinctive, rugged appearance, are flexible and bendable, dense like naturally prepared jerky, and are shelf stable for extended periods of time. See col. 2, lines 9-18, col. 4 lines 10-20, and col. 16 lines 28-31. The amount of raw meat employed may be at least about 50 % by weight based upon the weight the rotary moldable dough. See col. 4 lines 25-27. The meat-based dough compositions

preferably include a binding agent, such as a starch, a gum and combinations thereof to bind the water inherent in the meat and any added water so as to provide a cohesive, sheetable, rotary-moldable meat-based dough. The amount of binding agent may range from about 1% by weight to about 20% by weight, based upon the weight of the rotary moldable meat-based dough. See col. 5 lines 40 -67, and col. 7 lines 20-36.

Karwowski et al does not teach the use of wheat flour as claimed. The Examiner maintains that it would be obvious to include wheat flour in the composition of Karwowski because Nakajima (JP9149757), Scaglione et al, McGenity, and Richar et al disclose the use of wheat flour in making a rotary molded composition. There is no motivation in Karwowski et al to seek the teachings of Nakajima, Scaglione et al, McGenity, or Richar and then modify the Karwowski et al composition and method so as to obtain those claimed by applicants. Even if the combination of the references were proper, applicant's claimed invention would not be obtained nor rendered obvious. Each of Nakajima, Scaglione et al, McGenity, and Richar are directed to the production of biscuits, which are crispy or hard, and not flexible jerky products or flexible meat-based products. These references employ wheat flour in amounts which would provide a crispy or hard texture, and combining the teachings of the references would result in a biscuit dough with a wheat flour content above applicant's claimed amounts, and a biscuit product which is crispy or hard and not flexible.

Nakajima relates to biscuit production, not flexible, meat-based pet foods, and teaches that the addition of roasted wheat flour to wheat flour in an amount of greater than or equal to 75% by weight based upon the weight of the wheat gives biscuits a crispy texture.

Scaglione et al is directed to the production of dog biscuits containing at least one inorganic pyrophosphate salt to reduce or prevent tartar accumulations on the teeth of dogs. Production of flexible, meat-based products is not disclosed. The Scaglione et al biscuit dough may contain about 50 to 60 percent by weight wheat flour, and about 3% to about 10% by weight meat and bone meal. See col. 9, lines 35-43. The addition of that high amount of wheat flour to the dough composition of Karwowski et al would be contrary to the teachings of Karwowski et al which employs a dough with at least about 50% by weight raw meat to obtain a flexible meat-based jerky product. Scaglione et al, desires a hard texture, which helps to remove plaque or tartar from teeth, and teaches away from compositions which reduce hardness. See, for example, col. 8 lines 43-47, col. 10 lines 7-21, col. 13 lines 18-20, col. 28-31, and col. 16 lines 28-30.

McGenity et al is directed to a breath-freshening biscuit comprising at least 40 ppm by weight of at least one plant extract. Richar et al is directed to a breath-freshening biscuit or raw hide having a water-soluble zinc compound coating for controlling malodorous breath. Production of flexible, meat-based products as claimed is not disclosed by McGenity et al or Richar. The McGenity et al and Richar biscuit doughs, like the Scaglione et al biscuit dough may contain about 50 to 60 percent by weight wheat flour, and about 3 % to about 10% by weight meat and bone meal. See McGenity et al at col. 5, lines 19-33, and Richar et al at col. 7 lines 53-62. The addition of that high amount of wheat flour to the dough composition of Karwowski et al would be contrary to the teachings of Karwowski et al which employs a dough with at least about 50% by weight raw meat to obtain a flexible meat-based jerky product.

UNEXPECTED RESULTS HAVE BEEN SHOWN

Furthermore, in the present specification, applicants have demonstrated unexpectedly superior results for the use of wheat flour compared to a specifically disclosed composition of Karwowski et al, Example 4, and a composition which does not employ wheat flour. In the Examples of the present specification, Table 1 shows the compositions of Examples 1-3 compared to the compositions of: (1) the pet food product disclosed in Example 4 of U.S. Patent No. 5,731,029 to Karwowski et al, which does not contain wheat flour (Comparative Example1), and (2) jerky strips without wheat flour (Comparative Example 2).

As stated in Paragraph [0070] of the specification, Tables 2-3 show the product of Example 1 has substantially reduced breakage in comparison to the product of Comparative Example 2. The product of Example 1 (with 4.3% by weight of wheat flour based upon the weight of the dough) had only 1 failed run out of 6 runs (i.e., 16.7% failure). In contrast the product of Comparative Example 2 had 6 failed out of 10 runs (i.e., 60% failure). Even with product culling, the product of Comparative Example 2 repeatedly failed.

As shown in Table 5, food products made from a dough containing 4% by weight and 10% by weight wheat flour (Experimental B, C, and E) showed an unexpectedly greater tensile strength as compared to: (1) the Control, which is Example 4 of Karwowski et al; (2) samples containing no wheat flour (Experimental A); and (3) samples containing wheat gluten (Experimental D). See paragraph [0074].

As shown in Table 6, food products made from a dough containing 10 % by weight wheat flour (Experimental E) showed an unexpectedly greater flexibility as compared to the Control product, which is Example 4 of Karwowski et al. As shown in

Table 6, there was a 15.3 % increase in maximum force to deform or break the 10% by weight wheat flour product (Experimental E) compared to the Control. Also, the % of maximum force at 14 mm deformation was 44.8 for Experimental E and only 5.3 for the Control.

SALT ADDITION

Also, as to claims 26 to 41, and 43, the Examiner maintains that Karwowski et al disclose adding a salt after the meat is cooked and no patentable distinction is seen as to when the salt is added absent a showing of unexpected results. However, as disclosed in the present specification at paragraph [0035], salt addition during cooking of the meat causes additional meat proteins to become soluble, thereby increasing the water binding capacity of the dough. Furthermore, unexpectedly superior results in terms of tensile strength and water activity have been demonstrated in the Examples of the present specification for the addition of salt to comminuted raw meat prior to or during cooking of the meat compared to products obtained with salt addition in a preblend after cooking as in Karwowski et al.

As shown in Table 5, food products made with salt addition at the cooker (Experimental A, C, and D), showed a directional increase in tensile strength as compared to the Control (Example 4 of Karwowski et al) where salt was added in a preblend after cooking without flour addition. As shown in Table 5, the % increase in average maximum force to deform or break ranged from 7.7 % to 17.3 % for Experimental A, C, and D compared to the Control (Example 4 of Karwowski et al).

Also, as shown in Table 7, the addition of salt at the cooker in Experimental A unexpectedly increased water activity of a dry, rotary-molded piece by about 9-10%

compared to the Control (Example 4 of Karwowski et al) where salt was added in a preblend after cooking.

In addition, as shown in Table 9, the addition of salt at the cooker (Experimental F1 and F2) compared to addition of the salt in a preblend after cooking (Experimental F3 and F4) unexpectedly increased water activity of a dry, rotary-molded piece made from a dough containing about 40% by weight of wheat flour, based upon the weight of the dough, by about 6-7%. The difference in water activity of the four batches of Experimental F was maintained after 1 month (e.g., 30 days) of shelf-life, stored in bulk in cardboard boxes with plastic liners and without moisture barrier protection as shown in Table 10. As a result of the higher water activity, a moister, chewy food product is obtained. See paragraphs [0080] - [0081].

II. CONCLUSION

In light of the foregoing remarks, this application is in condition for allowance, and early passage of this case to issue is respectfully requested. If there are any questions regarding this Amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application.

A request for a two month extension of time is being filed concurrently herewith.

Appl. No.10/650,023
AMENDMENT
Docket No. KFHI-109

Enclosed is a check for $300.00 for additional claim fee. Any additional fees should be charged to, or any overpayment in fees should be credited to, Deposit Account No. 501032 (Docket #KFHI-109).

Respectfully submitted,

Barry I. Hollander
Reg. No. 28,566

Hollander Law Firm, P.L.C.
10300 Eaton Place, Suite 305
Fairfax, VA 22030
(703) 383-4800
Fax: (703-383-4804)

Date: September 28, 2006

Enclosure: Check for $300.00

CERTIFICATE OF MAILING

I hereby certify that this correspondence dated 9-28-06 is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on 9-28-06.

HOLLANDER LAW FIRM, P.L.C.
Suite 305
10300 Eaton Place
Fairfax, Virginia 22030

Date: 9-28-06